

CLIENT LEGAL SERVICES
DIVISION



Military Claims Branch



DEPARTMENT OF THE ARMY
HEADQUARTERS, EIGHTH UNITED STATES ARMY
OFFICE OF THE STAFF JUDGE ADVOCATE
UNIT #15237
APO AP 96205-5237

REPLY TO
ATTENTION OF:

EAJA-LS

1 November 2009

MEMORANDUM FOR CLAIMANTS AGAINST THE UNITED STATES GOVERNMENT

SUBJECT: Procedures for Filing Tort Claims

1. Welcome to the Client Legal Services Division. Enclosed are instructions and forms explaining how to file a tort claim against the United States for wrongful death, personal injury, and property damage.
2. It is unfortunate that you have suffered a loss or injury. Our goal is to investigate and fairly settle your claim as quickly as possible. Please understand, however, that Congress and the Department of the Army have placed restrictions on our authority to pay claims of this nature. To ensure that we can pay you the full amount of money to which you are entitled under the law, it is important that you read and carefully follow the enclosed instructions, that you carefully complete all applicable claims forms, and that you submit all the required documentation to substantiate your claim.
3. A claims survey form is attached to this letter. We are genuinely interested in your comments regarding our service to you and welcome any suggestions for improvements. Please return this form at the time you file your claim or fold it in half and mail it postage-free through the MPS. If you have additional comments at a later time, extra survey forms are available at the Client Legal Services Division.
4. The Client Legal Services Division will be open Monday through Wednesday and Friday from 0900 – 1600 hours, and on Thursdays from 1300 – 1600. Our office is closed on Thursday mornings for training. Please contact our office to make an appointment to come in to file your claim. If you need assistance at any stage in the claims process, please do not hesitate to contact us at 738-4826/8242.

Encls
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DOUG J. CHOI
MAJ, JA
Chief, Client Legal Services Division

TORT CLAIM CHECKLIST (Misc Items/Incidents)

The following is **required** to process a military tort claim for medical injury:

_____ **Original SF 95** (sample form & blank form enclosed).

- Complete blocks 1 – 19 (if not applicable, write “NA”)
- Statements such as “See Attached” are not acceptable entries
- Use personal mail address, NOT local Korean residential address

_____ **Documentary evidence to support your claim.**

_____ **Insurance Settlement** (if insurance company paid any funds associated with loss/injury).

_____ **US Military stationed or TDY in Korea (and accompanying dependents):** PCS/TDY orders to Korea, with amendments, pinpoint assignment orders, and extensions (FSTE/AIP).

_____ **US Civilian Employees stationed or TDY (and accompanying dependents):** Employment documentation for current position (i.e. SF50 (DoD), DA Form 3434 (NAF), USFK Form 700-19A-E & Accreditation Letter (Invited Contractor), etc), along with extension paperwork, or TDY order.

NOTE: If the above document does not reflect that you have a return rights, living quarters allowance, transportation agreement, etc., provide your original passport showing VISA/SOFA status (passport will be immediately returned upon verification).

_____ **US Personnel visiting Korea (Active Duty: copy of leave form; Civilians: original passport for verification of VISA status (passport will be immediately returned upon verification)).**

_____ **Reassignment documentation (if scheduled to depart).**

_____ **Original Electronic Fund Transfer Worksheet** (blank form enclosed).

_____ **Original Power of Attorney.** You must have this if you are filing for your sponsor, spouse, or someone else.

NOTE: Additional documentation or information may be required in the course of the investigation. Failure to provide necessary documentation will result in action based available information.

You have **two years** from the **date of the incident, date damaged discovered, or date you should have know the damage to exist, whichever is later**, to file a claim.

If you desire copies of any forms or documents pertaining to your claim, you should make copies prior to coming to the Client Legal Services Division. If you need assistance, feel free to come by our office during normal office hours or call to speak to one of our representative.

SAMPLE

CLAIM FOR DAMAGE, INJURY, OR DEATH		INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.		FORM APPROVED OMB NO. 1105-0008	
1. Submit to Appropriate Federal Agency: HQ, EUSA, Office of the SJA ATTN: Military Tort Claims Unit 15237 APO AP 96205-5237			2. Name, address of claimant, and claimant's personal representative if any. (See instructions on reverse). Number, Street, City, State and Zip code. <div style="border: 1px solid black; height: 40px; width: 100%;"></div>		
3. TYPE OF EMPLOYMENT <div style="display: flex; justify-content: space-between;">MILITARYCIVILIAN</div>	4. DATE OF BIRTH Self Explanatory	5. MARITAL STATUS Self Explanatory	6. DATE AND DAY OF ACCIDENT Self Explanatory	7. TIME (A.M. OR P.M.) Self Explanatory	
8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary). <div style="border: 1px solid black; padding: 10px; min-height: 100px;"> Summarize in your own words the facts and circumstances. DO NOT enter "See Attached", unless the attachment is continuation of your remarks from Item 8. </div>					
9. PROPERTY DAMAGE					
NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code). Complete if applicable, otherwise enter "NA".					
BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED. (See instructions on reverse side). Describe the actual damage as a result of the incident.					
10. PERSONAL INJURY/WRONGFUL DEATH					
STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDENT. Complete if applicable, otherwise enter "NA".					
11. WITNESSES					
NAME		ADDRESS (Number, Street, City, State, and Zip Code)			
Self Explanatory		Self Explanatory			
12. (See instructions on reverse). AMOUNT OF CLAIM (in dollars)					
12a. PROPERTY DAMAGE Self Explanatory	12b. PERSONAL INJURY Self Explanatory	12c. WRONGFUL DEATH Self Explanatory	12d. TOTAL (Failure to specify may cause forfeiture of your rights). Don't forget to total blocks 12a-12c.		
I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.					
13a. SIGNATURE OF CLAIMANT (See instructions on reverse side).		13b. PHONE NUMBER OF PERSON SIGNING FORM Self Explanatory		14. DATE OF SIGNATURE Self Explanatory	
CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM The claimant is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729).		CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.)			

SAMPLE

INSURANCE COVERAGE

In order that subrogation claims may be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of the vehicle or property.

15. Do you carry accident Insurance? ☐ Yes If yes, give name and address of insurance company (Number, Street, City, State, and Zip Code) and policy number. ☐ No

Complete if applicable, otherwise enter "NA".

16. Have you filed a claim with your insurance carrier in this instance, and if so, is it full coverage or deductible? ☐ Yes ☐ No

Complete if applicable, otherwise enter "NA".

17. If deductible, state amount.

Complete if applicable

18. If a claim has been filed with your carrier, what action has your insurer taken or proposed to take with reference to your claim? (It is necessary that you ascertain these facts).

Complete if applicable, otherwise enter "NA".

19. Do you carry public liability and property damage insurance? ☐ Yes If yes, give name and address of insurance carrier (Number, Street, City, State, and Zip Code). ☐ No

Complete if applicable, otherwise enter "NA".

INSTRUCTIONS

Claims presented under the Federal Tort Claims Act should be submitted directly to the "appropriate Federal agency" whose employee(s) was involved in the incident. If the incident involves more than one claimant, each claimant should submit a separate claim form.

Complete all items - Insert the word NONE where applicable.

A CLAIM SHALL BE DEEMED TO HAVE BEEN PRESENTED WHEN A FEDERAL AGENCY RECEIVES FROM A CLAIMANT, HIS DULY AUTHORIZED AGENT, OR LEGAL REPRESENTATIVE, AN EXECUTED STANDARD FORM 95 OR OTHER WRITTEN NOTIFICATION OF AN INCIDENT, ACCOMPANIED BY A CLAIM FOR MONEY

Failure to completely execute this form or to supply the requested material within two years from the date the claim accrued may render your claim invalid. A claim is deemed presented when it is received by the appropriate agency, not when it is mailed.

If instruction is needed in completing this form, the agency listed in item #1 on the reverse side may be contacted. Complete regulations pertaining to claims asserted under the Federal Tort Claims Act can be found in Title 28, Code of Federal Regulations, Part 14. Many agencies have published supplementing regulations. If more than one agency is involved, please state each agency.

The claim may be filled by a duly authorized agent or other legal representative, provided evidence satisfactory to the Government is submitted with the claim establishing express authority to act for the claimant. A claim presented by an agent or legal representative must be presented in the name of the claimant. If the claim is signed by the agent or legal representative, it must show the title or legal capacity of the person signing and be accompanied by evidence of his/her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian or other representative.

If claimant intends to file for both personal injury and property damage, the amount for each must be shown in item number 12 of this form.

DAMAGES IN A SUM CERTAIN FOR INJURY TO OR LOSS OF PROPERTY, PERSONAL INJURY, OR DEATH ALLEGED TO HAVE OCCURRED BY REASON OF THE INCIDENT. THE CLAIM MUST BE PRESENTED TO THE APPROPRIATE FEDERAL AGENCY WITHIN TWO YEARS AFTER THE CLAIM ACCRUES.

The amount claimed should be substantiated by competent evidence as follows:

- (a) In support of the claim for personal injury or death, the claimant should submit a written report by the attending physician, showing the nature and extent of the injury, the nature and extent of treatment, the degree of permanent disability, if any, the prognosis, and the period of hospitalization, or incapacitation, attaching itemized bills for medical, hospital, or burial expenses actually incurred.
- (b) In support of claims for damage to property, which has been or can be economically repaired, the claimant should submit at least two itemized signed statements or estimates by reliable, disinterested concerns, or, if payment has been made, the itemized signed receipts evidencing payment.
- (c) In support of claims for damage to property which is not economically repairable, or if the property is lost or destroyed, the claimant should submit statements as to the original cost of the property, the date of purchase, and the value of the property, both before and after the accident. Such statements should be by disinterested competent persons, preferably reputable dealers or officials familiar with the type of property damaged, or by two or more competitive bidders, and should be certified as being just and correct.
- (d) Failure to specify a sum certain will render your claim invalid and may result in forfeiture of your rights.

PRIVACY ACT NOTICE

This Notice is provided in accordance with the Privacy Act, 5 U.S.C. 552a(e)(3), and concerns the information requested in the letter to which this Notice is attached.

A. **Authority:** The requested information is solicited pursuant to one or more of the following: 5 U.S.C. 301, 28 U.S.C. 501 et seq., 28 U.S.C. 2671 et seq., 28 C.F.R. Part 14.

- B. **Principal Purpose:** The information requested is to be used in evaluating claims.
- C. **Routine Use:** See the Notices of Systems of Records for the agency to whom you are submitting this form for this information.
- D. **Effect of Failure to Respond:** Disclosure is voluntary. However, failure to supply the requested information or to execute the form may render your claim "invalid."

PAPERWORK REDUCTION ACT NOTICE

This notice is solely for the purpose of the Paperwork Reduction Act, 44 U.S.C. 3501. Public reporting burden for this collection of information is estimated to average 6 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Director, Torts Branch, Attention: Paperwork Reduction Staff, Civil Division, U.S. Department of Justice, Washington, DC 20530 or to the Office of Management and Budget. Do not mail completed form(s) to these addresses.

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3. TYPE OF EMPLOYMENT <input type="checkbox"/> MILITARY <input type="checkbox"/> CIVILIAN		4. DATE OF BIRTH	5. MARITAL STATUS	6. DATE AND DAY OF ACCIDENT	7. TIME (A.M. OR P.M.)
8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary).					
9. PROPERTY DAMAGE					
NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code).					
BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED. (See instructions on reverse side).					
10. PERSONAL INJURY/WRONGFUL DEATH					
STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDENT.					
11. WITNESSES					
NAME		ADDRESS (Number, Street, City, State, and Zip Code)			
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12a. PROPERTY DAMAGE	12b. PERSONAL INJURY	12c. WRONGFUL DEATH	12d. TOTAL (Failure to specify may cause forfeiture of your rights).		
I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.					
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CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM			CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS		
The claimant is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3729).			Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.)		

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16. Have you filed a claim with your insurance carrier in this instance, and if so, is it full coverage or deductible? ☐ Yes ☐ No

17. If deductible, state amount.

18. If a claim has been filed with your carrier, what action has your insurer taken or proposed to take with reference to your claim? (It is necessary that you ascertain these facts).

19. Do you carry public liability and property damage insurance? ☐ Yes If yes, give name and address of insurance carrier (Number, Street, City, State, and Zip Code). ☐ No

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(c) In support of claims for damage to property which is not economically repairable, or if the property is lost or destroyed, the claimant should submit statements as to the original cost of the property, the date of purchase, and the value of the property, both before and after the accident. Such statements should be by disinterested competent persons, preferably reputable dealers or officials familiar with the type of property damaged, or by two or more competitive bidders, and should be certified as being just and correct.

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[illegible]

ELECTRONIC FUND TRANSFER WORKSHEET

PAYEE INFORMATION

NAME (Last, First, Middle Initial): _____

Mailing Address: _____

Social Security Number: _____

Telephone Number (DSN or COMM): _____

E-Mail Address: _____

FINANCIAL INSTITUTION INFORMATION

NAME: _____

Address: _____

9-digit Routing Number: _____

Depositor Account Number: _____

Type of Account: ☐ Checking ☐ Savings

Claimant Signature: _____

PRIVACY ACT STATEMENT

The following information is provided to comply with the Privacy Act of 1974 (P. L. 93-579). All information collected on this form is required under the provisions of 31 U.S.C 3322 and 31 C.F.R. 210. This information will be used by the Treasury Department to transmit payment data by electronic means to vendor's or individual's financial institution. Failure to provide the requested information may delay or prevent the receipt of payments through the Automated Clearing House Payment System.

MPS

**HQ, Eighth United States Army
Office of the Staff Judge Advocate
ATTN: Chief, Military Claims
Unit #15237
APO AP 96205-5237**